

REMARKS

The present Amendment is in response to the Final Official Action dated July 3, 2006, and is being submitted along with a Request for Continued Examination. In the present Amendment, claims 1 and 14 have been amended, and claims 15 and 16 have been cancelled. Claim 19 had been previously cancelled in a previous response. Therefore, claims 1-14, 17, 18 and 20-23 are currently pending. The following sets forth Applicants' arguments relating to the presently pending claims.

As an initial matter, Applicants thank the Examiner for indicating that claims 8, 11 and 16-18 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In the present Amendment, Applicants have in fact amended currently pending independent claim 14 to include the subject matter of allowable dependent claim 16 and intervening dependent claim 15. Claims 15 and 16 have been canceled accordingly. Essentially, this subject matter relates to the base portion being made of a polymer material and the first and second guide portions being made of a metal material. As these limitations are noted as allowable subject matter by the Examiner, there will be no further discussion of independent claim 14, and Applicants respectfully request that such claim be readily allowed.

In addition, Applicants also thank the Examiner for indicating that claims 20-23 are allowable over the prior art of record. Such claims will also not be discussed in the present response, but Applicants note that such should be allowed in due course.

In the Official Action, the Examiner first responds directly to Applicants' previously submitted arguments in the first response to the first Action in this matter. Essentially, the Examiner asserts that such arguments are unpersuasive. In particular, the Examiner responds to Applicants' arguments that

neither U.S. Patent No. 5,749,876 to Duvillier et al. ("Duvillier"), or U.S. Patent Application Publication No. 2004/0260301 to Lionberger et al. ("Lionberger") teach a first body and a second body where at least one aperture of the first body communicates with a cutting tool guide surface of the second body. The Examiner cites FIG. 3 of Duvillier as showing an aperture on a top portion of the guide which is ultimately in communication with a cutting tool guide surface of another body portion of the tool. In addition, the Examiner has rejected Applicants' arguments that the use of both polymeric and nonpolymeric material in the present cutting tool is patentable. The Examiner notes that such would have been obvious to one of ordinary skill in the art at the time of the invention.

Thus, in the outstanding final Official Action, the Examiner has reiterated his rejection of claims 1-7, 9, 10, 12 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Duvillier in view of Lionberger. Essentially, it is once again the Examiner's position that Duvillier discloses a bone cutting apparatus including all of the limitations of the noted rejected claims, except for a bone cutting apparatus comprised of polymeric material. The Examiner cites Lionberger in support of his contentions that a guide made of polymer material would have been obvious to one of ordinary skill in the art. Applicants respectfully disagree with the Examiner's rejections, especially in light of amendments made herein to independent claim 1.

Independent claim 1 has been amended to include the limitations that the bone cutting block include a polymeric first body portion having at least one aperture extending in a *first direction* therethrough for receiving a bone cutting tool and a non-polymeric second body portion having a cutting tool guide surface thereon. The second body portion is coupled to the first body portion with the cutting tool guide surface thereon in communication with the aperture *such that the bone*

cutting tool can be extended through the aperture in the first direction. This is far different than that which is taught in either Duvillier or Lionberger, and especially that which is shown in FIG. 3 of Duvillier. While FIG. 3 of Duvillier depicts an aperture which is positioned and in cooperation perpendicularly with respect to the cutting tool guide surface of the cutting guide taught therein, the present invention employs an aperture and cutting tool guide surface which are arranged parallel to one another. Clearly, the present invention is far different from the design taught in Duvillier, and an inventive step over such reference. In the present Amendment, independent claim 1 has been amended accordingly. As such, such claim is neither anticipated nor obviated by either Duvillier or Lionberger, or the combination of both. As such, Applicants respectfully request that the § 103(a) rejection of independent claim 1 be removed.

In light of all of the above, Applicants respectfully submit that currently pending independent claims 1 and 14 are not anticipated nor suggested by any of the prior art of record. As such, Applicants respectfully request that the rejections of such claims be removed and the claims be moved into a condition of allowance. As dependent claims 2-13, 17 and 18 properly dependent upon either independent claim 1 or independent claim 14, such claims should also be moved into a condition of allowance. A dependent claim is necessarily narrower than its respective independent claim. Thus, Applicants respectfully request allowance of currently pending claims 1-14, 17, 18 in due course.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is

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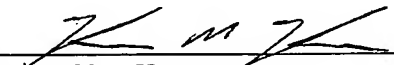
respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: November 15, 2006

Respectfully submitted,

By


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